



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

ELP
Docket No. 5627-98
21 April 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 19 April 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Marine Corps on 24 September 1980 for four years as a PFC (E-2). The record reflects that you served for only four months without incident. However, during the ten month period from January to October 1981 you received two nonjudicial punishments (NJP) and were convicted by a special court-martial. Your offenses consisted of three instances of failure to go to your appointed place of duty, breaking restriction, and six periods of unauthorized absence (UA) totalling about 32 days.

The record further reflects that in March 1982 you went UA four times for a total of about 10 days. On 12 April 1982, you submitted a request for discharge for the good of the service in lieu of trial by court-martial, presumably for the foregoing 10 days of UA. However, your specific request and other pertinent documents are not on file in the record. On 13 April 1982 the discharge authority directed discharge under other than honorable conditions for the good of the service. You were so discharged on 20 April 1982.

In its review of your application, the Board conducted a careful search of your records for any mitigating factors which might warrant recharacterization of your discharge. However, no justification for such a change could be found. The Board noted that at the time of your enlistment you were a high school graduate with average intelligence and, at age 20, were older than the average recruit. The Board concluded that you possessed the necessary skills to successfully complete an enlistment. The Board also noted your contention that a number of personal and family problems impaired your ability to serve. However, you fail to state what these problems were or provide any probative evidence in support of your application. The Board concluded that your contention was insufficient to warrant recharacterization of your discharge given your record of two NJPs, a conviction by special court-martial, and the fact that you accepted discharge rather than face trial by court-martial for apparently four periods of UA of about 10 days. Although your record is incomplete, a presumption of regularity exists that actions taken on your request for discharge was both proper and appropriate. As a result, the Board believed that considerable clemency was extended to you when the request for discharge to avoid trial by court-martial was approved since, by this action, you escaped the possibility of confinement at hard labor and a punitive discharge. Further, the Board concluded that you received the benefit of your bargain with the Marine Corps when your request for discharge was granted and you should not be permitted to change it now. The Board concluded that your discharge was proper and no change is warranted. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director